

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board

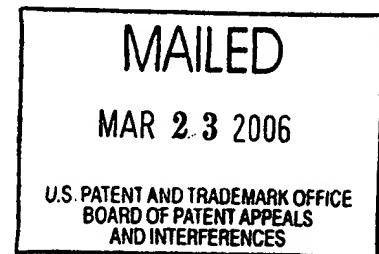
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VICKI NAISH, NICHOLAS R. PURZER,
DAVID A. REYNOLDS and LOUISA W. YEUNG

Appeal No. 2006-0329
Application 09/839,037

ON BRIEF



Before OWENS, GROSS and LEVY, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from a rejection of claims 14-23, which are all of the pending claims.

THE INVENTION

The appellants claim a data processing system which is adapted to manage the transfer of parts stored in a secure area to a customer and includes a processor having program instructions for

receiving secure area part reception and issuing information from a customer client via a computer network. Claim 14 is illustrative:

A data processing system adapted to manage transfer of parts stored in a secure area by supplier to a customer via a computer network, comprising:

a storefront database having secure area inventory information stored therein;

a processor in operable communication with the storefront database, and configured to selectively communicate with a customer client and a supplier client via the computer network; and

a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions, the program instructions including:

receiving secure area part reception information from the customer client via the computer network;

updating the secure area inventory information stored on the storefront database using the secure area part reception information;

receiving secure area part issuing information from the customer client via the computer network; and

updating the secure area inventory information using the secure area part issuing information.

THE REFERENCES

Muhme	5,886,634	Mar. 23, 1999
Byford	6,220,509	Apr. 24, 2001
		(filed Jul. 9, 1998)
Nelson	6,487,479	Nov. 26, 2002
		(filed Nov. 28, 2000)
Cusack et al. (Cusack)	6,493,724	Dec. 10, 2002
		(filed Jun. 19, 2000)

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 14-16 and 18 over Muhme in view of Cusack; claims 14, 17, 19, 20, 22 and 23 over Muhme in view of Cusack and Nelson; and claim 21 over Muhme in view of Cusack, Nelson and Byford.¹

OPINION

We reverse the aforementioned rejections. We need to address only claim 14, which is the sole independent claim.²

Muhme discloses an item removal security system and method wherein tags are affixed to the item and to a person transporting the item into or out of a facility, a reader wirelessly reads and compares the tags, and if the transporting is unauthorized an alarm and a lock are activated (col. 1, lines 40-49; col. 3, lines 50-53; col. 3, line 65 - col. 4, line 15; col. 6, lines 20-22).

Cusack discloses a web-integrated inventory management (WIM) system for managing dynamic and widely distributed inventories of perishable materials such as biological samples (col. 1, lines 9-12; col. 1, line 66 - col. 2, line 2). Sample providers enter their

¹ The examiner's answer does not include a statement of the rejection section. Consequently, we use the statements of the rejections in the final rejection mailed August 24, 2004.

² The examiner does not rely upon Byford for any disclosure that remedies the deficiency in the references applied to the independent claim.

samples into a central website database and manage their sample inventory through the WIM system, and sample buyers search that database (col. 2, lines 19-42).³

In response to the appellants' argument that Muhme does not disclose a processor configured to selectively communicate with a customer client and a supplier client via a computer network (brief, page 10), the examiner argues that Muhme's base station and ID tags are designed to track and monitor inventory into and out of a facility, and that the base station communicates remotely with another party in the facility when an unauthorized removal is detected (answer, pages 3-4). That response by the examiner does not explain where Muhme discloses the limitation argued by the appellants. The examiner further argues that "any distinction between a supplier/owner and customer client is blurred by the fact that in such facility, customers and suppliers constantly move material out (col. 1 lines 31-39) of the facility and are often the corporate alter egos of each other. That is, within such a facility, the supplier and customer can be under the same corporate scheme, e.g. a division of the facility corporation can be its client." See *id.* Column 1, lines 31-39, relied upon by the examiner, discloses that Muhme's invention is a system and method

³ The examiner does not rely upon Nelson for any of the limitations in claim 14 (answer, page 9).

for authorizing the removal of an item from a facility by associating the item with an authorized person, container or both. Even if, as argued by the examiner, a supplier and a customer can be part of the same company, the examiner does not explain how Muhme would have fairly suggested, to one of ordinary skill in the art, a processor configured to selectively communicate with a customer client and a supplier client.

In response to the appellants' argument that Muhme and Cusack do not disclose or suggest receiving secure area part reception information from a customer client via a computer network (brief, page 10) the examiner argues, in reliance upon *General Electric Co. v. Wabash Appliance Corp.*, 304 U.S. 364 (1938), that the appellants' claim requirement that a processor is configured to selectively communicate with a customer client and a supplier client via a computer network must be taken with the smallest regard because it is functional language at a point of novelty, yet the appellants have not disclosed any structure for obtaining the desired result (answer, page 7). The appellants recite a structure, i.e., a processor that is in operable communication with a storefront database and is configured to selectively communicate with a customer client and a supplier client via a computer network. Hence, to establish a *prima facie* case of obviousness the examiner

must explain how the applied prior art would have fairly suggested that processor to one of ordinary skill in the art, and the examiner has not done so.

The examiner states that "Cusack et al. is relied on to establish the obvious arrangement of a customer client (buyer 18) and supplier client (provider 16) communicating through a computer network WIM12" (answer, page 8), and argues that "[t]he buyer/customer uses the network to access the inventory database 14 and to purchase an item and, once done, the network automatically updates the inventory database to account for the removed/sold item (col. 11, line 12 et seq.)." See *id.* The appellants' independent claim requires a data processing system that is "adapted to manage transfer of parts stored in a secure area by a supplier to a customer via a computer network", and includes a processor having program instructions including "receiving secure area part reception information from the customer client via the computer network". Cusack's reception information is provided by the provider (supplier) not the buyer (client) (col. 6, lines 1-3; col. 7, lines 12-14 and 65-67; col. 8, lines 8-20; col. 9, lines 6-14 and 28-32). The examiner has not explained how the applied prior art would have fairly suggested, to one of ordinary skill in the art, receiving secure area part reception information from a customer client.

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For the above reasons we conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the appellants' claimed invention.

DECISION

The rejections under 35 U.S.C. § 103 of claims 14-16 and 18 over Muhme in view of Cusack, claims 14, 17, 19, 20, 22 and 23 over Muhme in view of Cusack and Nelson, and claim 21 over Muhme in view of Cusack, Nelson and Byford, are reversed.

REVERSED

Terry J. Owens
TERRY J. OWENS)
Administrative Patent Judge)
)
Anita Pellan Gross
ANITA PELLMAN GROSS) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES
Stuart S. Levy
STUART S. LEVY)
Administrative Patent Judge)

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